

H-3101-1 - ISSUANCE OF LEASES

Interagency Agreements Between the Forest Service and BLM for  
Oil and Gas Leasing and Oil and Gas Operations

90-SIA-023

INTERAGENCY AGREEMENT  
BETWEEN  
THE FOREST SERVICE  
AND  
THE BUREAU OF LAND MANAGEMENT  
FOR  
OIL AND GAS LEASING

This Interagency Agreement (IA) establishes certain procedures by which the Forest Service (FS) will authorize the Bureau of Land Management (BLM) to offer National Forest System (NFS) lands for oil and gas leasing. The intent of this IA is to promote timely, efficient, effective compliance with the statutory and regulatory responsibilities of both agencies.

I. LEASING ANALYSES

Regulations at 36 CFR 228.102 require the FS to conduct an analysis prior to authorizing the BLM to offer NFS lands for oil and gas lease. The FS and the BLM agree that an important objective of this analysis should be to ensure that it provides an adequate environmental basis for all decisions to be made by the FS or the BLM with respect to offering NFS lands for lease. To ensure that such will be the case, each documentation of an analysis shall include:

1. Description of the manner in which exploration, development, production and abandonment are administered, including a brief explanation of how lease stipulations, sections 2 and 6 of the standard lease form, Onshore Oil and Gas Orders, and Notices to Lessees and Operators are used to direct and control operations. The role of other agencies is also to be discussed, particularly with respect to air and water pollution control.

2. Description of historic and current leasing, exploration and production trends in the area and an assessment of the potential for occurrence of oil and gas. High, moderate, and low potential areas are to be shown on maps.

3. Projection of the type and amount of activity that is reasonably foreseeable within the analysis area based on the trends identified and the assessment of potential for occurrence of oil and gas. How the projection would be affected under each alternative is to be described. For purposes of analysis, and to provide a basis for identifying lease stipulations, at least some exploration, development, and production is to be projected for the area even if activity is not likely.

4. Summary of the anticipated beneficial and adverse environmental effects (including social and economic) of the reasonably foreseeable activity projected under the proposed action and under each alternative.

5. Identification on maps, for each alternative, of areas that would be:

- (i) open to development subject to the terms and conditions of the standard lease form. Typical conditions of approval that will be enforced under the standard lease terms when operations are proposed are to be generally

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described (i.e., stream setbacks, erosion control practices, visual resource protection measures, etc.);

(ii) open to development but subject to lease stipulations that would prohibit operations on areas larger than 40 acres or that would require delays of more than 60 days. If other standards are adopted for use of stipulations (36 CFR 228.102(c)), such standards will be described in decision documents and included as a lease stipulation when lands in the analysis area are offered for sale. Maps are to show where each stipulation would be used. Narratives are to state why each stipulation is considered justified and necessary. And,

(iii) closed to leasing, distinguishing between those areas closed by exercise of management discretion and those closed by other authority, such as a law, regulation, or order.

6. Identification of opportunities for enhancing renewable resource values or for adjusting the mix of land uses in conflict areas such that oil and gas activities could be allowed without resulting in unacceptable effects.

#### II. COORDINATION OF ANALYSES

Coordination of analyses is to be such that BLM will be able to adopt resulting NEPA documents as provided for by 40 CFR 1506.3(c). The BLM shall participate as a cooperating agency in the scoping and completion of leasing analyses and in documenting the results. The BLM will, if requested, specifically provide data for leasing analyses in the following areas:

- Describing post-lease controls and the manner in which operations are administered (including compliance with air and water quality statutes).
- Describing exploration, leasing and production trends, and assessing the potential for occurrence of oil and gas.
- Projecting reasonably foreseeable activity scenarios and describing how scenarios would be affected under alternatives being analyzed.
- Analyzing direct, indirect, and cumulative impacts to subsurface values.

Analyses conducted under 36 CFR 228.102(c) are to be adequate to support both of the decisions required by 36 CFR 228.102(d) and (e). If additional analyses prove necessary, the FS and BLM will coordinate such in the same manner as is described in this section.

#### III. GENERAL PROGRAM COORDINATION

The FS and the BLM will coordinate oil and gas work planning at the local level and will coordinate requests for appropriations at the National level. FS will give priority to scheduling areas for analysis that BLM identifies as having leasing interest. BLM will give priority to providing requested information for leasing analyses to ensure that leasing analysis schedules can be met.

Within the external boundaries of NFS unit, split estate lands (private surface/Federal minerals) are to be included in the leasing analysis done for NFS lands. Responsibility for conducting that portion of an analysis is to be decided at the local level.

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The FS and BLM will coordinate use of lease stipulations to achieve consistency in content and format.

Prior to finalizing a sale notice that includes NFS lands, BLM will forward the notice to FS to ensure correct stipulations are being used. If the FS does not respond within 30 days, BLM may proceed to publish the sale notice relying upon the maps or legal land descriptions provided by the FS when the authorization to offer lands for lease was given. If parcels do not receive bids at a lease sale but are then filed upon noncompetitively with reconfigured boundaries, the BLM will similarly provide the FS a 30-day opportunity to ensure that correct stipulations are being used.

Joint signing of transmittals of NEPA documents to interested and affected parties is encouraged. Consideration is also to be given to combined decision documents that would allow the public to view the respective decisions and appeal procedures of both agencies simultaneously.

The BLM will provide copies of leases to FS within 60 days of lease issuance, and will notify FS within 60 days of relinquishment, termination, expiration, unitization, or extension of leases.

The FS and BLM will provide each other a reasonable opportunity to comment on draft manuals, handbooks, and directives affecting the manner in which land use planning and NEPA compliance is accomplished for oil and gas leasing.

## IV. SUPPLEMENTAL AGREEMENTS

The BLM State Directors and FS Regional Foresters are encouraged to enter into supplemental agreements consistent with this IA to further enhance cooperation and efficiencies between the agencies. Copies of supplemental agreements are to be forwarded to respective Washington Offices for informational purposes.

## V. EFFECT OF THIS AGREEMENT

This IA supersedes the IA for Mineral Leasing dated June 19, 1984, with respect to oil and gas leasing. It is to be implemented in conjunction with the FS/BLM Planning IA of 1986. It is not to be read as affecting regulations controlling the manner in which Forest Plans are developed or implemented. Inconsistencies between this IA and present or future regulations of either agency are to be resolved in favor of the regulations.

F. Dale Robertson  
Chief, U.S. Forest Service

11/4/91  
Date

C. J. Jamison  
Director, Bureau of Land Management

11/19/91  
Date

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This Interagency Agreement (IA) between the U.S. Forest Service (FS) and the Bureau of Land Management (BLM) establishes certain procedures for the coordinated administration of oil and gas operations on Federal leases within the National Forest System (NFS). The intent of this IA is to provide a basis for efficient, effective compliance with statutory and regulatory requirements of both Agencies. The FS and BLM will cooperate to ensure smooth coordination for processing Applications for Permit to Drill (APD's) and review of subsequent operations. Individual offices of the FS and BLM are encouraged to enter into more detailed agreements, consistent with this IA, to improve coordination and efficiency at the local level. Copies of agreements are to be forwarded to respective Washington Offices for information purposes.

This IA is to be read in conjunction with Onshore Oil and Gas Operating Order No. 1 and regulations appearing at 36 CFR 228 Subpart E and 43 CFR 3160, which define certain terms used in this IA, describe processing steps in more detail, and contain timeframes for certain actions to be taken by the FS and BLM.

I. OPERATIONS

A. General - No oil and gas operations involving surface disturbance on NFS lands are permitted without approval from the FS. The FS shall have the lead for National Environmental Policy Act (NEPA) analysis and documentation for such operations. The BLM shall be responsible for addressing down-hole aspects of proposals. A single NEPA document is to be prepared to support all decisions to be made by FS or BLM on the proposed action, including decisions on offlease uses. NEPA documents shall be tiered to existing documents to the extent possible.

B. Application for Permit to Drill and Notice of Staking - Onshore Order No. 1 allows operators to choose one of two methods to obtain approval to drill a well. Each requires the site to be surveyed and staked, and each requires a complete APD to be filed, including a Surface Use Plan of Operations (SUPO) which BLM will promptly forward to FS and which requires FS approval. However, under the Notice of Staking (NOS) method, submission of a complete SUPO is delayed by the operator until after a pre-drill site inspection has been made.

1. Posting - Public notice of an APD or NOS shall be posted for 30 days at the offices of the Forest Supervisor and District Ranger, and at the responsible office of the BLM. When an APD or NOS is submitted, the BLM will promptly forward sufficient information to the FS by telephone, telefax, etc., to allow the posting period to commence. All offices shall commence the posting period as soon as the following information is available:

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- i. Company/Operator Name
- ii. Well Name/Number
- iii. Well Location (nearest 1/4, 1/4 section)
- iv. Where the Location Map is available for review

An operator may also request a waiver, exception, or modification of a lease stipulation when an APD or NOS is submitted. If granting such request would constitute a substantial modification of the lease terms, the public is to be notified of the request in the same posting. If this is not done, a separate 30-day posting will be necessary.

If FS or BLM elects to forward copies of the public notice to interested parties, a copy of the interested parties list shall be given to the other agency. Such actions are not to delay commencement of the mandatory 30-day public notice period.

2. Processing Delays - Upon receipt of the information required for posting, the FS will determine whether processing is likely to occur within the timeframes specified in Onshore Order No. 1, or whether additional time will be necessary for items such as NEPA analysis, Endangered Species Act compliance, or cultural clearances. In accordance with 36 CFR 228.107(b)(1), the FS will advise both BLM and the operator in writing if, and as soon as it becomes known, processing will be delayed.

3. Pre-drill Inspection - Upon receipt of an NOS or an APD (with the minimum information that would be required for an NOS), the FS will notify the operator as to whether special use permits will be necessary, and will schedule and coordinate a pre-drill inspection consistent with requirements in Onshore Order No. 1. The FS will be prepared at the inspection to discuss special operating conditions for the area, and to inform the operator as to whether endangered species, special studies, or inventories will be necessary. If this is not possible, FS will provide the operator such information within 7 days of the inspection. The BLM will provide input to FS concerning down-hole issues and analyses, and concerning the effect of mitigating measures on down-hole operations. The FS will incorporate BLM's concerns and findings in its SUPO decision and, in accordance with 36 CFR 228.107(b)(2), shall promptly notify the operator and BLM of the decision.

C. Sundry Notice - Upon receipt of a Sundry Notice (SN), BLM will forward a copy to the FS if there will be a change to an approved SUPO, or if temporary or permanent abandonment is involved. The FS will review and respond to BLM and the operator as quickly as possible. If an SN is submitted either verbally or in writing that requires quick approval, BLM will request FS to give initial verbal approval to the surface use involved. Discussions between FS and BLM concerning verbal approvals are to be documented in official case files.

With respect to SN's for disposal of produced water, BLM shall be responsible for authorizing the method of disposal and approval of the overall operation, but only after FS has authorized the surface use.

D. Threatened and Endangered Species, and Cultural Clearances - The FS shall be responsible for ensuring compliance with the Endangered Species and Historic Preservation Acts.

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E. Bonding - If at any time prior to or during the conduct of operations the FS determines that additional bonding is necessary, the FS will inform the operator and the BLM of the amount and give the operator the option of increasing the bond held by BLM, or of posting a separate bond with FS. The FS will notify BLM of the operator's decision and shall provide copies of all correspondence with the operator relative to the bond amount increase.

In the event of default environmental concerns shall be given priority for application of bond funds.

F. Onshore Orders/Notices to Lessees - The requirements found in Onshore Orders/Notices to Lessees often involve safety-related or important down-hole issues which influence the conduct of operations on the surface. In some cases, operators will not have great flexibility as to how, when, and where this surface use occurs. For that reason, it is important that there be close coordination between offices to ensure that operators are allowed to comply with these requirements.

G. Official Files - BLM's official files shall include copies of all correspondence from the FS relative to surface use actions.

II. INSPECTION AND ENFORCEMENT

The FS has inspection and enforcement responsibility (I&E) for surface use. BLM has responsibility for down-hole I&E (including related equipment on the surface) and production accountability. However, in some cases, FS and BLM I&E responsibilities overlap and require coordination (i.e., removing oil from pits involves both surface protection and production accountability concerns). In other cases, I&E can be performed by one Agency on behalf of the other. Local offices are encouraged to enter into agreements providing for coordination of I&E, and allowing for non-technical I&E to be performed by whichever Agency can accomplish the work most efficiently.

Consultation and information exchange between I&E personnel is encouraged to avoid duplication of effort. Copies of inspection reports, and Notices or Incidents of Noncompliance are to be shared at the local level.

If an emergency occurs such as imminent danger to public health and safety or serious harm to important resource values, the Agency first made aware of the situation shall take immediate action to abate the situation and shall notify the other Agency as soon as possible. However, where the situation appears to require down-hole operations be shutdown, FS shall not order a shutdown without first contacting BLM so that BLM can coordinate with the operator to ensure the shutdown is handled in a safe, efficient manner. At such time as FS delivers a written order to the operator, BLM will be given a copy.

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III. EFFECT ON OTHER AGREEMENTS

This IA supersedes the Leasable Mineral Operations Agreement of October 1987, including the 1989 Supplement that addressed bonding, to the extent that oil and gas coordination procedures were a part of that Agreement.

F. Dale Robertson  
Chief, U.S. Forest Service

11/4/91  
Date

A. Janion  
Director, Bureau of Land Management

11/12/91  
Date